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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,282	03/29/2001	Michael Harper	BS01060	4458
36192	7590	06/23/2005	EXAMINER	
CANTOR COLBURN LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			LE, VU	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/821,282	<b>Applicant(s)</b> HARPER, MICHAEL	
	<b>Examiner</b> Vu Le	<b>Art Unit</b> 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

1. Applicant's arguments, see Amendment, filed March 28, 2005 with respect to the rejection(s) of claim(s) 1-17 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Nakajima et al, JP 06-191479 (machine translation).

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakajima et al, JP 06-191479 (machine translation), hereinafter as Nakajima.

Re claim 1, Nakajima discloses a buoy for observing and monitoring the surface of a predetermined area of water (drawing 1), comprising:

a flotation device (1);

a waterproof imaging device attached to the exterior of the flotation device, the imaging device operable for obtaining continuous real-time images of the surface of the predetermined area of water;

(Nakajima teaches the imaging device 18 being enclosed within a waterproof enclosure of the flotation device 1 for imaging continuous real-time images of the surface water at a particular location, as opposed to being exteriorly connected to the

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flotation device as claimed-see para 0006 & 0022. However, shifting the position of the camera and attaching it to the exterior of the flotation device as claimed is obvious and would not have rendered unexpected results. In re Japikse, 86 USPQ 70 (CCPA 1950))

a waterproof computer partially or wholly disposed within the flotation device, the computer operable for storing the continuous real-time images of the surface of the predetermined area of water (9, para 0022 & 0027; i.e. in Nakajima, the buoy 1 is a waterproof main body, 18 is video camera, 9 is CPU system enclosed in the waterproof main body to serve as central control operations-which is operable to control storing continuous real-time images from the camera 18);

one or more communications devices partially or wholly disposed within the flotation device, the one or more communications devices operable for transmitting a signal representing the continuous real-time images of the surface of the predetermined area of water to an operator at a remote location (2-4, 10, also para 0006).

Re claim 2, the buoy of claim 1, further comprising a gimbal structure attached to the exterior of the flotation device and to the imaging device, the gimbal structure operable for allowing the imaging device to remain level in the presence of buoy tilting caused by wind and/or water currents. (As discussed in claim 1 above, Nakajima does not have the camera exteriorly connected to the flotation device, hence a gimbal structure would have been unnecessary. However, an exteriorly connected camera to the flotation device as claimed would have been obvious as discussed in claim 1 above and hence, would have necessitated a gimbal system for the benefit of stabilizing the

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camera to compensate for constant movements of the buoy during imaging. Such a gimbal system is notoriously well known and used in the art. Official Notice is taken).

Re claim 3, the buoy further comprising a power source partially or wholly disposed within the flotation device, the power source operable for providing power to the imaging device, the computer, and the one or more communications devices. (Nakajima et al teaches such power source, see drawing 1: 15, para. 0023).

Re claim 4, the buoy of claim 1, further comprising a plurality of energy collecting/power generating devices attached to the exterior of the flotation device, the plurality of energy collecting/power generating devices operable for maintaining the voltage level of the power source. (Nakajima teaches the DC-power source 15 may be of solar cells, para 0023. The power source is interiorly enclosed within the flotation device 1 as opposed to being exteriorly attached to the flotation device as claimed. However, shifting the position of the power source and attaching it to the exterior of the flotation device as claimed is obvious and would not have rendered unexpected results. In re Japikse, 86 USPQ 70 (CCPA 1950)).

Re claims 5-6, the buoy of claim 1, wherein the one or more communications devices further comprise one or more mobile telephones having data transmission capability. (See Nakajima, the antenna 2 serves this purpose, also the Abstract, para 0022).

Re claim 7, the buoy of claim 1, wherein the imaging device is disposed within a protective structure. (See Nakajima, drawing 1. The video camera 18 is enclosed within the protective cover of the flotation device 1).

Re claim 8, the buoy of claim 1, further comprising a tether and a mooring attached to the exterior of the flotation device, the tether and the mooring operable for securing the flotation device in a predetermined location. (Nakajima teaches a buoy that drifts in the marine water body for use in rescue operation of stranded victim, hence a tether and mooring operable to secure the flotation device at a fixed location is unnecessary. However, such features are notoriously well known and used in the art and would have been obvious to incorporate into Nakajima if fixing the buoy to a stationary location is desirable. Official Notice is taken).

Re claim 9, the buoy of claim 1, further comprising a controller associated with the imaging device, the controller operable for controlling the orientation of the imaging device relative to the surface of the predetermined area of water. (In Nakajima, see drawing 1, the image captured by the camera 18 is processed by the CPU 9. Nakajima does not explicitly disclose controlling the orientation of the imaging device per se, but rather the orientation of the buoy-see para 0026-0027. Since the camera 18 is entirely enclosed within the buoy structure, the orientation controls of the buoy would have effectively resulted in the orientation controls of the camera. The outcome is equivalent).

Claims 10-17 have been analyzed and rejected w/r to claims 1-9.

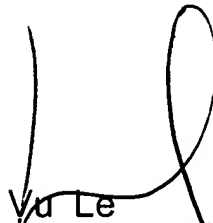
4. The amendment filed March 28, 2005 overcomes the objection of claims 4 and 16.

### Contact

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu Le whose telephone number is (571) 272-7332. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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